



DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2022-0081]

Hazardous Materials: Notice of Application for Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Application for a new special permit (21283-N).

SUMMARY: PHMSA is publishing this notice to provide awareness and solicit comments on an application for a special permit currently under review by PHMSA in consultation with the Federal Railroad Administration. An applicant is seeking a special permit to authorize the transportation in commerce of cryogenic ethane in DOT-113C120W9 and DOT-113C120W tank cars via rail freight. PHMSA notes that the subject matter of the special permit—i.e., transportation of cryogenic flammable liquids in rail tank cars—raises issues similar to the transportation of Liquefied Natural Gas (LNG) by rail, a matter for which multiple rulemakings are currently pending at the agency. Therefore, PHMSA is providing an opportunity for public comment on the application.

DATES: Comments must be received by [30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. However, PHMSA will consider late-filed comments to the extent possible.

ADDRESSES: You may submit comments identified by the docket number PHMSA-2022-0081 by any of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* (202) 493-2251.

- *Mail:* Docket Management System, U.S. Department of Transportation, Dockets Operations, M-30, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, Ground Floor, Room W12-140 in the West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number (PHMSA-2022-0081) for this notice at the beginning of the comment. Note that all comments received will be posted without change to <http://www.regulations.gov> including any personal information provided. If sent by mail, comments must be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard.

Docket: For access to the dockets to read background documents or comments received, go to <http://www.regulations.gov> or DOT's Docket Operations Office at the above addresses.

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily treated as private by its owner. Under the Freedom of Information Act (FOIA, 5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPRIETARY." PHMSA will treat such marked submissions as confidential under the Freedom of Information Act (FOIA).

Submissions containing CBI should be sent to Tony Gale, Transportation Specialist, Office of Hazardous Materials Safety, (202) 366-4535, PHMSA, East Building, PHH10, 1200 New Jersey Avenue, SE, Washington, D.C. 20590. Any commentary that PHMSA receives,

which is not specifically designated as CBI, will be placed in the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Tony Gale, Transportation Specialist, Office of Hazardous Materials, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Currently, the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) allows for transport of cryogenic (or refrigerated) ethane in cryogenic truck trailers designated MC 331 or MC 338 under 49 CFR 173.315 and in UN T75 portable tanks in the 49 CFR 172.101 Hazardous Materials Table, special provisions column. Cryogenic ethane is not currently allowed to be shipped in DOT 113 rail tank cars. On August 20, 2021, Gas Innovations LNG Refrigerants Inc. (Gas Innovations), submitted an application for a special permit under § 107.105. Gas Innovations seeks a special permit for authorization to transport cryogenic ethane in DOT-113C120W9 and DOT-113C120W rail tank cars from Marcus Hook, Pennsylvania to locations along the Gulf Coast of the United States, Mexico, and Canada. Final destinations would be points in proximity to petrochemical or LNG liquefaction facilities where the ethane would receive further processing. Gas Innovations explains in its application (available at PHMSA-2022-0081) that ethane is a non-volatile organic compound that is more stable than ethylene, a material that is currently authorized for transportation by DOT-113C120W rail tank car under the HMR. Gas Innovations further states that, compared to ethylene, ethane has a lower vapor pressure, lower flammability in air, and a higher ignition temperature. Gas Innovations asserts that transport of cryogenic ethane is safer than transport of cryogenic ethylene. Gas Innovations explains that transportation of cryogenic ethylene is authorized in DOT-113C120W9 and DOT-113C120W rail tank cars consistent with the specifications set forth in 49 CFR part 179, subpart F which specify the design and construction requirements for cryogenic liquid tank car tanks. Finally, Gas Innovations notes that it has

experience in the transportation of liquefied petroleum and other cryogenic products in rail tank cars. Gas Innovations believes that the lower risk profile of ethane compared to ethylene, together with the company's experience and expertise moving cryogenic products by rail tank car, will allow them to transport cryogenic ethane at the same level of safety under a special permit compared with what is currently authorized for rail transportation of cryogenic ethylene under the HMR.

PHMSA notes that the proposed special permit related to the transportation of cryogenic flammable liquids in rail tank cars raises similar considerations as the transportation of LNG and the subject of PHMSA's Notice of Proposed Rulemaking: Suspension of HMR Amendments Authorizing Transportation of Liquefied Natural Gas by Rail (Docket No. PHMSA-2021-0058).

PHMSA seeks comments from the public on the application for a special permit to transport cryogenic ethane via rail car. Specifically, PHMSA requests comments on the application and, if the special permit were to be approved, any specific operational controls which should be added to enhance safety and environmental impacts.

This notice of receipt of application for special permit is published in accordance with 49 CFR 107.127 and the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.97(b)). Comments and answers in response to questions posed in this notice are governed by the information collection for special permits: OMB Control No. 2137-0051 (Rulemaking and Special Permit Applications).

Issued in Washington, DC, on November 29, 2022, under authority delegated in 49 CFR 1.97.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

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